

Country-by-country analysis - Portugal

Annex IX to the Report on the application of the
Insurance Distribution Directive (IDD)

Consumer Protection Department
EIOPA REGULAR USE
EIOPA-BoS-21/584
06 January 2022



eioipa

European Insurance and
Occupational Pensions Authority

Note:

Powers of national competent authorities (NCAs):

In January 2021, EIOPA launched an online survey addressed to NCAs to gather input as to whether they are sufficiently empowered to carry out their tasks. The following information is based on the response from the Portuguese Insurance and Pension Funds Supervisory Authority to this survey.

The figures should be interpreted with some caution as insurance markets – including the number and type of insurance intermediaries operating therein – vary significantly across Members States, as well as the supervisory structure and framework. **There are, therefore, limits to the level of comparability of data.**

Changes in the EU insurance distribution market:

In February 2021, EIOPA launched a survey addressed to NCAs to gather information on the insurance intermediaries' market structure and patterns of cross-border activities. The following information is based on the response from the Portuguese Insurance and Pension Funds Supervisory Authority to this survey.

The figures should be interpreted with some caution as there are differences as to how intermediaries are registered in their home Member State, in the national categories of insurance intermediaries and in the approaches by NCAs to collect data.

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Information on the insurance intermediaries' market structure and patterns of cross-border activity

General data of the national market (2020):

	Amounts	Share total EEA
Population (in 1000) ¹	10,295	2.3%
(Re)insurance GWP (in million) ²	9,670.30	0.6%
Number of (re)insurance undertakings ³	38	1.6%
Number of registered insurance intermediaries	15,831	1.8%

National competent authority:

Portuguese Insurance and Pension Funds Supervisory Authority

Registered insurance intermediaries split by natural and legal persons:

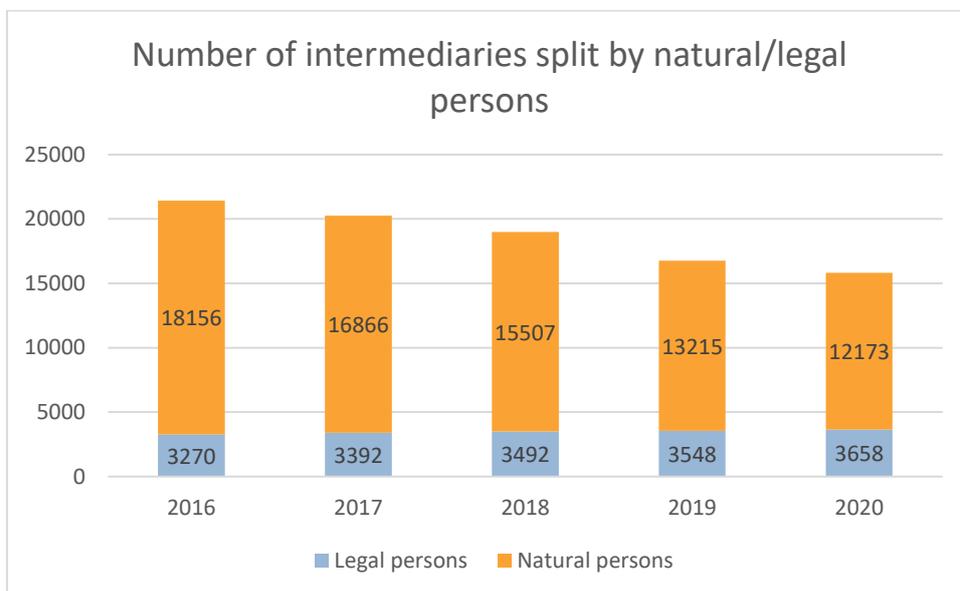
¹ Based on eurostat data:

<https://ec.europa.eu/eurostat/documents/2995521/11081093/3-10072020-AP-EN.pdf/d2f799bf-4412-05cc-a357-7b49b93615f1>

² (Re)insurance GWP includes life and non-life premiums generated by domestically registered undertakings year-end 2020 based on annually reported SII information:

https://www.eiopa.europa.eu/tools-and-data/insurance-statistics_en#Premiums,claimsandexpenses

³ Number of (re)insurance undertakings includes the domestically registered undertakings. Based on SII information (see link above)



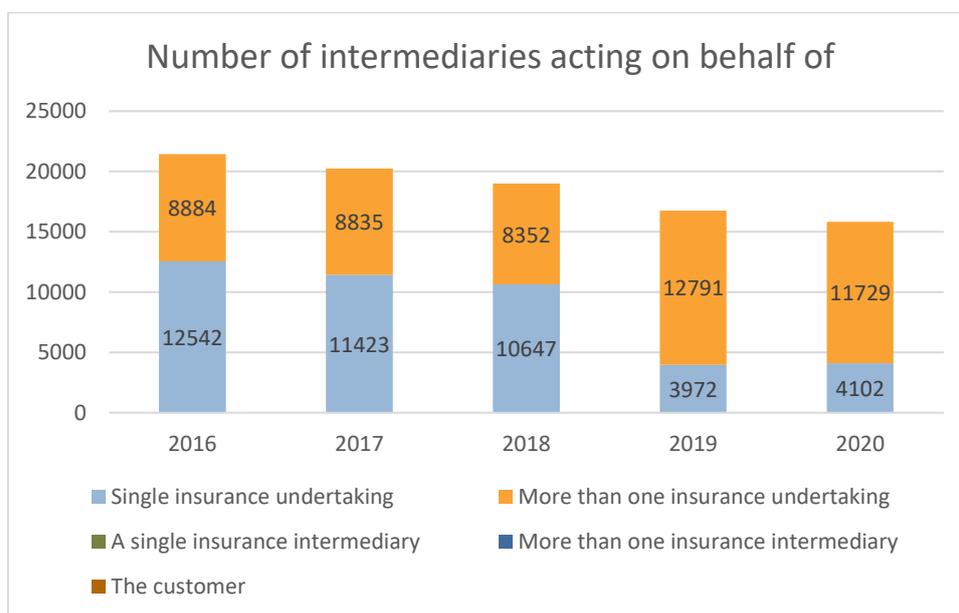
Comments provided by the NCA on the figures included in the chart above:

Possibly due to additional requirements provided for in the legal regime that transposed the IDD, it was verified a decrease in the number of the insurance and ancillary insurance intermediaries registered before ASF.

Online registration system:

The Portuguese online registration system is in place since 2007 and the information on the number of registered insurance, reinsurance and ancillary insurance intermediaries is daily available.

Registered insurance intermediaries split by categories based on the activities of insurance intermediaries:



Comments provided by the NCA on the figures included in the chart above:

ASF does not have information regarding which insurance and ancillary insurance intermediaries are acting on behalf of insurance intermediaries or the customer.

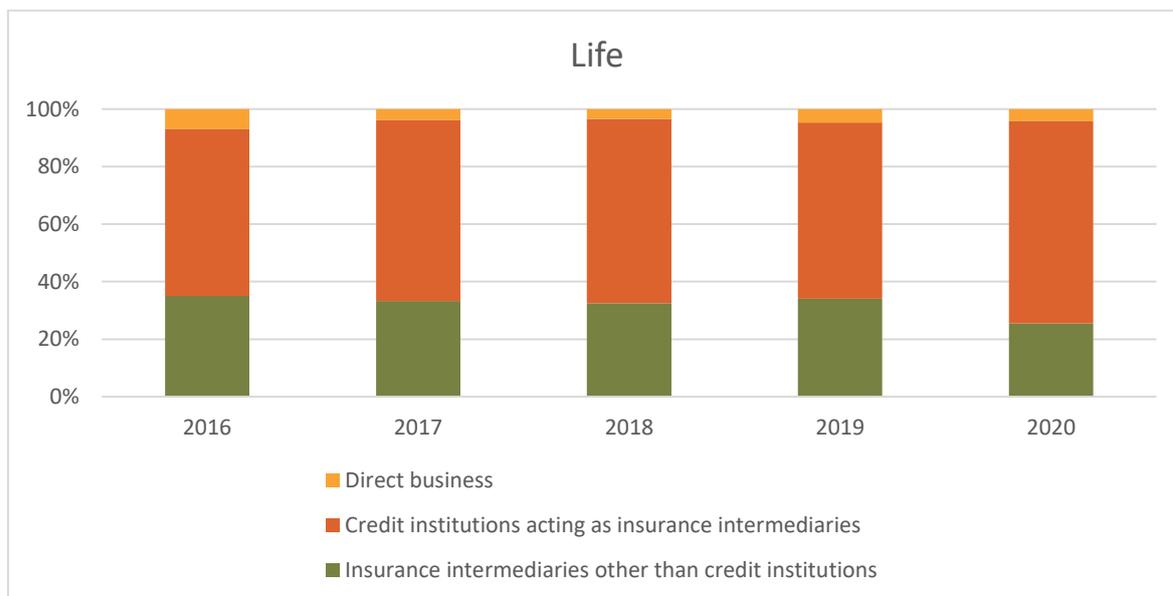
Registered insurance intermediaries split by categories based on the way in which they are paid:

Number of intermediaries paid in relation to the insurance contract	No intermediary is remunerated this way	Up to 25% of the intermediaries in the market are remunerated this way	25%-50% of the intermediaries in the market are remunerated this way	50%-75% of the intermediaries in the market are remunerated this way	More than 75% of the intermediaries in the market are remunerated this way
1. on the basis of a fee					
2. on the basis of a commission					12,450
3. on the basis of any other type of remuneration					

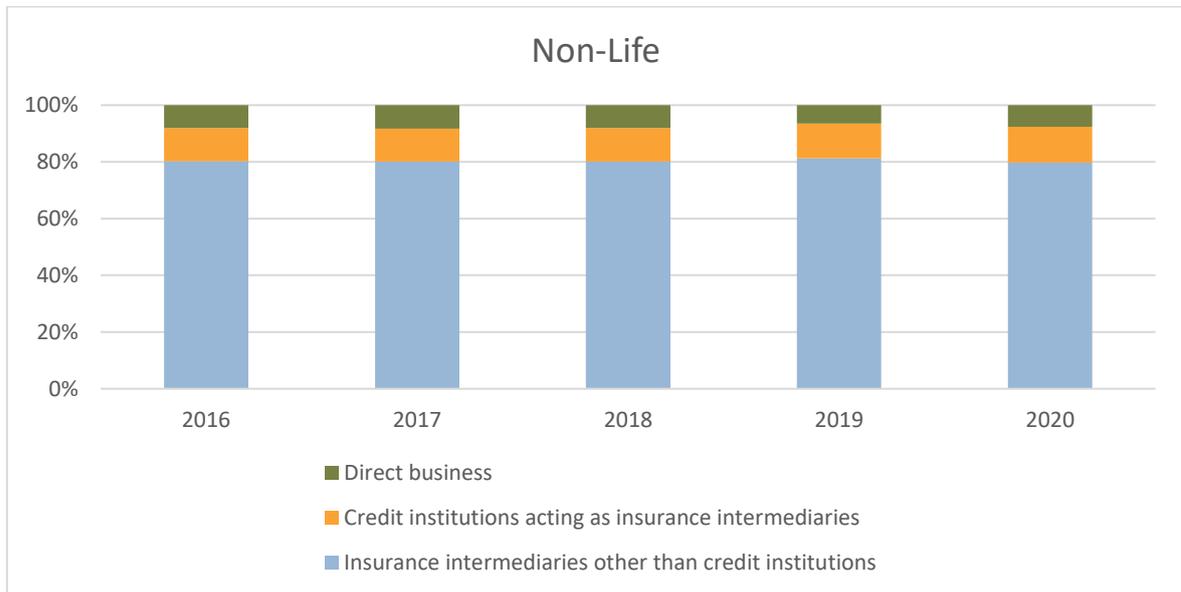
4. on the basis of a combination of any type of remuneration set out at points 1, 2 and 3		50			
5.Total number of registered intermediaries (5=1+2+3+4)	0.00	50.00	0.00	0.00	12450.00

The data indicated above reflects our estimates based on the ongoing supervisory activity (for instance, analysis of mediation agreements and exchange of information with the operators during onsite and offsite inspections).

GWP split by distribution channels:



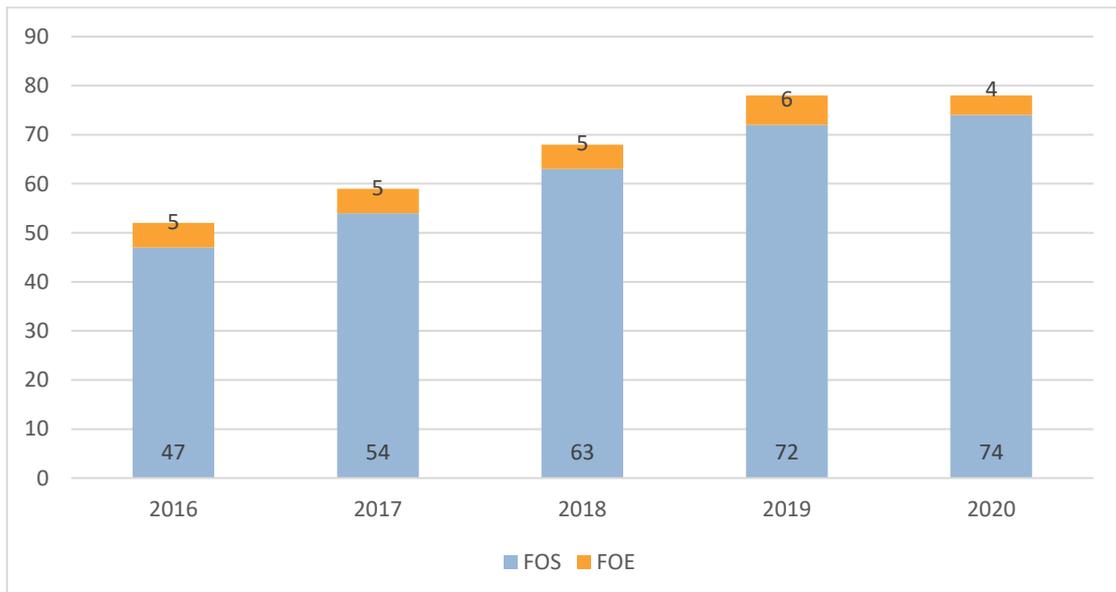
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Comments provided by the NCA on the figures included in the chart above:

National Template for Insurance: Notas ES

Number of domestic insurance intermediaries with a passport to carry out insurance mediation activities under freedom to provide services (FOS) or under freedom of establishment (FOE)



Number of insurance intermediaries with a passport to carry out insurance mediation activities under FOS or under FOE at the reference date 31.12.2020 split by host Member State:

<i>Host Member State</i>	<i>1. FOS</i>	<i>2. FOE</i>	<i>3. TOTAL</i>
<i>Austria</i>	3		3
<i>Belgium</i>	12		12
<i>Bulgaria</i>	2		2
<i>Cyprus</i>	3		3
<i>Croatia</i>	1		1
<i>Czech Republic</i>	3		3
<i>Denmark</i>	2		2
<i>Estonia</i>	2		2
<i>Finland</i>	3		3
<i>France</i>	20	2	22
<i>Germany</i>	12		12
<i>Greece</i>	5		5
<i>Hungary</i>	3		3
<i>Iceland</i>	1		1
<i>Ireland</i>	10		10
<i>Italy</i>	9		9
<i>Latvia</i>	2		2
<i>Liechtenstein</i>	1		1
<i>Lithuania</i>	2		2
<i>Luxembourg</i>	5	1	6
<i>Malta</i>	5		5

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<i>Netherlands</i>	10		10
<i>Norway</i>	3		3
<i>Poland</i>	5		5
<i>Portugal</i>			0
<i>Romania</i>	5		5
<i>Slovakia</i>	2		2
<i>Slovenia</i>	1		1
<i>Spain</i>	59	2	61
<i>Sweden</i>	5		5
<i>Total EEA</i>	196	5	201

General qualitative description of the “patterns of cross-border activity”:

The majority of insurance intermediaries registered in Portugal that carry out cross-border activities operates under the freedom to provide services (approximately 98%) and with regards to non-Life insurance classes. The cross-border activity is carried out mostly in Spain (approximately 30%) and France (approximately 10%) possibly due to the geographical proximity and to the high number of Portuguese living in these countries, particularly in France.

Information on the powers of the NCA

Statutory powers to implement the IDD:

The Insurance Distribution Directive (IDD) was transposed into the national legal framework through the Insurance and Reinsurance Distribution Regime, approved as Annex to Law no. 7/2019, of January 16th (IRDR).

Under this regime, the Portuguese Insurance and Pension Funds Supervisory Authority (ASF) is granted with the following powers (some of them prior to the transposition of the IDD):

- To supervise the activity developed by insurance and reinsurance distributors registered before ASF, including the activities developed under freedom of establishment and freedom to provide services (no. 1 of article 5 of the IRDR);
- To supervise the compliance of the activity developed by insurance and reinsurance distributors operating under freedom of establishment and freedom to provide services in the national territory with the applicable requirements (no. 2 of article 5 of the IRDR);
- To register insurance, reinsurance and ancillary insurance intermediaries, which includes the assessment of professional and organizational requirements (Chapter II of the IRDR, articles 8 to 22, establishes the registration procedure as well as the main elements to assess in order to grant such registration to the applicants). Additionally, ASF is the authority responsible for the creation, maintenance and update of the online registration of insurance, reinsurance and ancillary insurance intermediaries which residence or registered office is in the national territory (article 56 of the IRDR);
- To verify the technical, financial and legal compliance of the activity developed by insurance and reinsurance distributor [article 69 a) of the IRDR];
- To verify the functioning conditions and the quality of the insurance and reinsurance courses provided as a mean to comply with the professional requirements, including the power to withdraw a course from the list of certified courses for this purpose [article 69 b) do IRDR];
- To verify the compliance of minimum requirements by the entities authorized to provide continuing professional training and development to insurance and reinsurance distributors, including the powers to withdraw an entity from the list of authorized entities for this purpose [article 69 c) do IRDR];
- To obtain detailed information on the insurance and reinsurance activity, including the information developed by entities exempted from registration, through the collection of data or documentation regarding the said activity [article 69 d) do IRDR];
- To adopt, in relation to insurance and reinsurance distributors, respective shareholders and members of the administration, all the adequate and necessary measures to confirm that the

activities comply with the applicable requirements and to avoid or remedy any irregularities that may harm the customers' interests or even the insurance and reinsurance undertaking interests [article 69 f) of the IRDR];

- To assure the effective application of the measures mentioned above, if necessary, through judicial means [article 69 g) of the IRDR];
- To establish the accounting rules applicable to the insurance and reinsurance distribution activity [article 69 h) of the IRDR];
- To issue instructions and recommendations to correct irregularities [article 69 i) of the IRDR];
- To receive and analyze the breaches of dispositions of the IRDR reported according to the implemented procedures for the participation of breaches (article 73 of the IRDR);
- To cooperate with competent authorities of other Member States. Within this cooperation ASF is empowered to communicate to the competent authority of the Member State in which the distributor is registered the application of sanctions or other measures, to regularly share information regarding the fit and proper and professional requirements of the insurance and reinsurance activities and to communicate the application of a sanction or other measure that may lead to the cancellation of the registration (article 71 of the IRDR);
- To disclose and regularly update information on the general good rules in its website (no. 2 of article 78 of the IRDR);
- To take all the adequate measures to avoid the development of the insurance and reinsurance distribution activity by a distributor registered in other Member State in the national territory with the sole purpose of avoiding the national legislation that would be applicable if the said distributor was registered before ASF, if this activity seriously hinders the functioning of the national market with regards to customers' protection. ASF shall inform the competent home authority before taking any necessary measure to protect the customers' rights (article 79 of the IRDR);
- To communicate to the home authority that ASF has received the notification that an insurance, reinsurance or ancillary insurance intermediary registered in other Member State intends to develop its activity in the national territory under the freedom of establishment or freedom of services (article 80 and 83 of the IRDR). Additionally, ASF discloses in its website the list of operators that have communicated this intention (no. 2 of article 81 and no. 3 of article 84 of the IRDR);
- To communicate to the home authority that an insurance, reinsurance or ancillary insurance intermediary developing its activity under freedom of services in the national territory is not complying with the national requirements applicable. Where, despite the measures taken by the home Member State or because those measures prove to be inadequate or are lacking, the

insurance, reinsurance or ancillary insurance intermediary persists in acting in a manner that is clearly detrimental to the interests of national customers or to the orderly functioning of the Portuguese insurance and reinsurance market, ASF may, after informing the home authority, take appropriate measures to prevent further irregularities, including, in so far as is strictly necessary, preventing that intermediary from continuing to carry on new business within its territory. Notwithstanding, in situations where immediate action is necessary in order to protect the right of customers, ASF may take the appropriate measures to prevent or penalize irregularities committed within its territory, in a situation where immediate action is necessary in order to protect the said customers' rights, including the possibility of preventing insurance, reinsurance and ancillary insurance intermediaries from carrying out new business within its territory (article 82 of IRDR);

- To take all the adequate measures to remedy a situation in which an insurance, reinsurance or ancillary insurance intermediary developing its activity under freedom of establishment in the national territory is not complying with the national requirements applicable in transposition of Chapters V and VI of the IDD.

Except regarding the provisions mentioned above, to communicate to the home authority that an insurance, reinsurance or ancillary insurance intermediary developing its activity under freedom of establishment in the national territory is not complying with the national requirements applicable.

Where, despite the measures taken by the home Member State or because those measures prove to be inadequate or are lacking, the insurance, reinsurance or ancillary insurance intermediary persists in acting in a manner that is clearly detrimental to the interests of national customers or to the orderly functioning of the Portuguese insurance and reinsurance market, ASF may, after informing the home authority, take appropriate measures to prevent further irregularities, including, in so far as is strictly necessary, preventing that intermediary from continuing to carry on new business within its territory.

Notwithstanding, in situations where immediate action is necessary in order to protect the right of customers, ASF may take the appropriate measures to prevent or penalize irregularities committed within its territory, in a situation where immediate action is necessary in order to protect the said customers' rights, including the possibility of preventing insurance, reinsurance and ancillary insurance intermediaries from carrying out new business within its territory (article 86 of IRDR);

- To notify the host authorities that an insurance, reinsurance or ancillary insurance intermediary registered before ASF has communicated its intention to initiate the development of the insurance or reinsurance distribution activity in the territory of the respective Member State, under freedom of services or freedom of establishment (article 90 and 95 of the IRDR);

- To take all appropriate measures to remedy situations communicated by the host authorities to ASF, according to which an insurance, reinsurance or ancillary insurance intermediary registered

before ASF and acting under the freedom to provide services or freedom of establishment is in breach of any obligation set out in the IDD (after assessing the information communicated). ASF shall inform the host authority of any such measures taken (article 93 and 99 of the IRDR);

- To conduct the procedures applicable to administrative offences in the insurance and pension funds sector and to apply the respective sanctions or administrative measures (no. 1 of article 111 of the IRDR);

- To report to EIOPA all condemnatory decisions disclosed under the procedure applicable to special crimes in the insurance and pension funds sector and to administrative offences falling under the jurisdiction of the Portuguese Insurance and Pension Funds Supervisory Authority, approved as Annex II to law no. 147/2015, of September 9th, both individually and in an aggregated form (article 118 of the IRDR).

Extent to which NCA has not been sufficiently empowered to ensure the implementation of the IDD

Not applicable.

Most common supervisory tools to monitor the IDD implementation (1=least common; 5=most common)

Tools	Insurance undertakings	Insurance intermediaries
Market monitoring	5	3
Data-driven market monitoring, beyond complaints data analysis	5	3
Thematic reviews	5	3
Mystery shopping	3	2
On-site inspections	5	4
Off-site monitoring	5	5

Consumer focus groups	1	n/a
Product oversight activities	5	2
Consumer research	1	n/a
Investigations stemming out of complaints	5	5
Other <i>a priori</i> supervisory activities (e.g., fit&proper assessments)	3	n/a

Comment by NCA on supervisory tools referred to in the table above:

With regards to other a priori supervisory activities, it shall be mentioned that, as of the transposition of the IDD, ASF began to supervise the compliance of the insurance product information document (IPID) with the applicable requirements.

Supervisory tools adopted before and following IDD implementation:

Cells marked in **blue** means "yes" and cells marked in **grey** means "no".

Tools adopted	Adopted before IDD implementation	Adopted following IDD implementation	Is planning to adopt this or next year	Would like to adopt but is not empowered to adopt
Market monitoring	grey	blue	grey	grey
Data-driven market monitoring, beyond complaints data analysis	grey	blue	grey	grey
Thematic reviews	blue	grey	grey	grey
Mystery shopping	blue	grey	grey	grey
On-site inspections	blue	grey	grey	grey

Off-site monitoring				
Product oversight activities				
Consumer focus groups				
Consumer research				
Investigations stemming out of complaints				
Other <i>a priori</i> supervisory activities (e.g., fit & proper assessments) – indicate below				

Comment by NCA on supervisory tools referred to in the table above:

With regards to other *a priori* supervisory activities, it shall be mentioned that, as of the transposition of the IDD, ASF began to supervise the compliance of the insurance product information document (IPID) with the applicable requirements.

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